

REMARKS

Claims 1-5, 9-15 are pending in the Application and stand rejected. Claims 6, 7, 16-27 are cancelled without prejudice. Claim 28 is added. Reconsideration is respectfully requested.

Rejections Under 35 U.S.C. §101

Claims 1-5 and 9-15 were rejected under 35 U.S.C. § 101. Assignee has amended claim 1 to positively tie the method to a statutory category, a circuit. Accordingly, Assignee respectfully requests withdrawal of the foregoing rejection.

Rejections Under 35 U.S.C. §103(a)

Claim 1 is amended to recite, among other limitations, “wherein selecting audio frequency components comprises filtering audio frequency components having a frequency less than a predetermined frequency in the audible range”.

The Office Action indicates that Saunders teaches “analyzing selected audio signal components (the first step is to measure the ZCR of the signal over a 2.4 second segment of the data; page 993, column 1, line 2)”. OA at 5. “In the same field of audio analysis, Tzanetakis teaches the audio signal components are audio frequency components (Tzanetakis analyzes MPEG audio files, which stores subband information that were converted via a filter bank; overview of MPEG2. In order to use traditional analysis such as zero-crossing, MPEG data must be decoded; introduction 1, paragraph 2).” OA at 6. “Pohlmann teaches selecting audio frequency components having a frequency less than a predetermined frequency (sampled audio must be passed through a low pass filter at the Nyquist frequency in order to prevent distortion called aliasing” ... OA at 6. “Therefore, it would have been obvious to combine the sampling of Saunders and Tzanetakis with the filtering of Pohlmann in order to prevent aliasing during the sampling of an audio signal, thus maintaining audio quality.” OA at 6.

Assignee respectfully submits that the foregoing combination does not teach “wherein selecting audio frequency components comprises filtering audio frequency components having a frequency less than a predetermined frequency in the audible range”.

Additionally, Assignee respectfully submits that one skilled in the art would not be motivated to combine the sampling of Saunders and Tzanetakis with the “filtering audio frequency components having a frequency less than a predetermined frequency in the audible range”. It is noted that Tzanetakis uses MPEG audio files. MPEG audio is sampled at rates such as 44.1 KHz or 48 KHz. Accordingly, no aliasing would occur for any frequency in the audible range.

Accordingly, Assignee respectfully requests allowance of claim 1, as now amended, and its dependents.

Additionally, claim 28 is added claiming that the predetermined frequency is about 4 KHz. Clearly, with sampling rates at 44.1 KHz or 48 KHz, one skilled in the art would not be concerned about aliasing of frequencies that are anywhere near the vicinity of 4 KHz. Accordingly, Assignee respectfully requests allowance of claim 28.

Final Matters

The Office Action makes various statements regarding the remaining claims and the references that are now moot in view of the previously presented amendments and/or arguments. Thus, the Applicants will not address all of such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicants reserve the right to argue additional reasons supporting the allowability of the remaining claims should the need arise in the future.

CONCLUSION

Applicant respectfully submits that claims 1-6 and 8-26 are in condition for allowance, and requests that the application be passed to issue.

Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Please charge any required fees not paid herewith or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Date: July 7, 2009

Respectfully submitted,

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